



State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/09/2008 (Per: GMM)



Appendix A ... Pt. 09H of 09

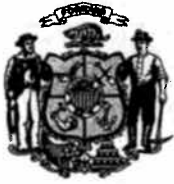
 The 2007 drafting file for LRB-0174

has been transferred to the drafting file for

2009 LRB-0150

☛ This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

☛ The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/08/2006 (Per: GMM)

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☞ Appendix A ... Part 08 of 12

☞ The 2005 drafting file for LRB 05-4299

has been transferred to the drafting file for

2007 LRB 07-0174

☞ This cover sheet, the final request sheet, and the final version of the 2005 draft were copied on yellow paper, and returned to the original 2005 drafting file.

☞ The attached 2005 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

1 **SECTION 276.** 938.335 (3j) of the statutes is created to read:

2 **938.335 (3j) INDIAN JUVENILE; ACTIVE EFFORTS FINDING.** At hearings under this
3 section involving an Indian juvenile who is the subject of a proceeding under s. 938.13
4 (4), (6), (6m), or (7), if the agency, as defined in s. 938.38 (1) (a), is recommending
5 placement of the Indian juvenile in a foster home, treatment foster home, group
6 home, or residential care center for children and youth or in the home of a relative
7 other than a parent, the agency shall present as evidence specific information
8 showing all of the following:

9 (a) That continued custody of the Indian juvenile by the parent or Indian
10 custodian is likely to result in serious emotional or physical damage to the Indian
11 juvenile.

12 (b) That the county department or agency primarily responsible for providing
13 services to the Indian juvenile has made active efforts to prevent the breakup of the
14 Indian family and that those efforts have proved unsuccessful. ✓

15 **SECTION 277.** 938.345 (1m) of the statutes is created to read:

16 **938.345 (1m) INDIAN JUVENILE; PLACEMENT PREFERENCES.** (a) Subject to pars. (b)
17 to (e), if the juvenile is an Indian juvenile who is in need of protection or services
18 under s. 938.13 (4), (6), (6m), or (7) and who is being placed in an out-of-home care
19 placement, the court shall designate one of the following as the placement for the
20 Indian juvenile, in the order of preference listed: ✓

21 1. The home of an extended family member of the Indian juvenile. ✓

22 2. A foster home or treatment foster home licensed, approved, or specified by
23 the Indian juvenile's tribe. ✓

24 3. An Indian foster home or treatment foster home licensed or approved by the
25 department, a county department, or a child welfare agency. ✓

1 4. A group home or residential care center for children and youth approved by
2 an Indian tribe or operated by an Indian organization that has a program suitable
3 to meet the needs of the Indian juvenile. ✓

4 (b) If the Indian juvenile's tribe has established, by resolution, an order of
5 preference that is different from the order specified in par. (a), the court shall follow
6 the order of preference established by that tribe so long as the placement is the least
7 restrictive setting appropriate for the juvenile's needs as specified in par. (e). ✓

8 (c) The court may depart from the order of preference specified in par. (a) or (b)
9 for good cause shown. ✓

10 (d) The standards to be applied in meeting the placement preference
11 requirement of this subsection shall be the prevailing social and cultural standards
12 of the Indian community in which the Indian juvenile's parents or extended family
13 members reside or with which the Indian juvenile's parents or extended family
14 members maintain social and cultural ties. ✓

15 (e) In designating a placement under this subsection, the court shall designate
16 a placement that is the least restrictive setting that most approximates a family, that
17 meets the Indian ^{juvenile's} ~~child's~~ special needs, if any, and that is within reasonable proximity
18 to the Indian ^{juvenile's} ~~child's~~ home, taking into account those special needs.

19 **SECTION 278.** 938.355 (2) (b) 6v. of the statutes is created to read:

20 938.355 (2) (b) 6v. If the juvenile is an Indian juvenile who is in need of
21 protection or services under s. 983.13 (4), (6), (6m), or (7) and who is placed outside
22 the home, a finding supported by clear and convincing evidence, including the
23 testimony of one or more qualified expert witnesses, that continued custody of the
24 Indian juvenile by the parent or Indian custodian is likely to result in serious
25 emotional or physical damage to the juvenile and a finding supported by clear and

convincing evidence as to whether the county department or agency primarily responsible for providing services under a court order has made active efforts to prevent the breakup of the Indian family and that those efforts have proved unsuccessful. ✓

SECTION 279. 938.355 (2) (d) of the statutes is amended to read:

938.355 (2) (d) The court shall provide a copy of the dispositional order to the juvenile's parent, guardian, legal custodian, or trustee and, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), to the Indian juvenile's Indian custodian and tribe.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

SECTION 280. 938.355 (2c) (title) of the statutes is amended to read:

938.355 (2c) (title) REASONABLE EFFORTS AND ACTIVE EFFORTS STANDARDS.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

SECTION 281. 938.355 (2c) (c) of the statutes is created to read:

938.355 (2c) (c) When a court makes a finding under sub. (2) (b) 6v. as to whether the county department or the agency primarily responsible for providing services to an Indian juvenile under a court order has made active efforts to prevent the breakup of the Indian family, the court's consideration of active efforts shall include the considerations listed under par. (a) 1. to 5., whether visitation schedules between the ^{Indian} juvenile and his or her parents were implemented, unless visitation was denied or limited by the court, whether the order of preference for placement of the Indian juvenile under s. 938.345 (1m) was followed, and whether the services provided to the Indian juvenile and his or her family were culturally responsive to their needs. ✓

SECTION 282. 938.355 (2d) (c) 1. of the statutes, as affected by 2005 Wisconsin Act ~~(Assembly Bill 443)~~, is renumbered 938.355 (2d) (c) and amended to read:

938.355 (2d) (c) If the court finds that any of the circumstances under par. (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

SECTION 283. 938.355 (2d) (c) 2. of the statutes is repealed. ✓

SECTION 284. 938.355 (2d) (c) 3. of the statutes is repealed. ✓

PW Act
SECTION 285. 938.355 (6) (an) 1. of the statutes, as affected by 2005 Wisconsin Act ... ~~(Assembly Bill 447)~~ ⁽³⁴⁴⁾, is amended to read:

938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction under par. (d) 1. or the sanction under par. (d) 3., with monitoring by an electronic monitoring system. A sanction may be imposed under this subdivision only if, at the time of the judgment, the municipal court explained the conditions to the juvenile and informed the juvenile of those possible sanctions for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian ~~child welfare act~~ Child Welfare Act, 25 USC 1911 to 1963, and, if the

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1 juvenile may be subject to that act, the names and addresses of the juvenile's Indian
2 custodian, if any, and tribe, if known. ✓

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

3 **SECTION 286.** 938.355 (6) (b) of the statutes, as affected by 2005 Wisconsin Act

4 ~~... (Assembly Bill 440)~~ is amended to read:

5 938.355 (6) (b) (A motion for imposition of a sanction may be brought by the

6 person or agency primarily responsible for the provision of dispositional services, the
7 district attorney or corporation counsel, or the court that entered the dispositional
8 order. If the court initiates the motion, that court is disqualified from holding a
9 hearing on the motion. Notice of the motion shall be given to the juvenile, guardian
10 ad litem, counsel, parent, guardian, legal custodian, and all parties present at the
11 original dispositional hearing. The motion shall contain a statement of whether the
12 juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1911 to 1963
13 and, if the juvenile may be subject to that act, the names and addresses of the
14 juvenile's Indian custodian, if any, and tribe, if known.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

15 **SECTION 287.** 938.355 (6) (bm) of the statutes is created to read:

16 938.355 (6) (bm) *Indian juvenile; notice.* If the person initiating the motion
17 knows or has reason to know that the juvenile is an Indian juvenile who has been
18 found to be in need of protection or services under s. 938.13 (4), (6), (6m), or (7) or who
19 has been adjudged to have violated a civil law or ordinance, notice under par. (b) to
20 the Indian juvenile's parent shall be provided in the manner specified in s. 938.273
21 (1) (ag). In like manner, the court shall also notify the Indian juvenile's Indian
22 custodian and tribe. No hearing may be held under par. (c) until at least 10 days after
23 receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe. On
24 request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall

1 grant a continuance of up to 20 additional days to enable the requester to prepare
2 for the hearing. ✓

3 **SECTION 288.** 938.355 (6) (cr) of the statutes is created to read:

4 938.355 (6) (cr) *Indian juvenile; findings*. ✓ The court may not order the sanction
5 of placement in a place of nonsecure custody specified in par. (d) 1. for an Indian
6 juvenile who has been found to be in need of protection or services under s. 983.13
7 (4), (6), (6m), or (7) or who has been adjudged to have violated a civil law or ordinance
8 unless the court finds by clear and convincing evidence, including the testimony of
9 one or more qualified expert witnesses, that continued custody of the Indian juvenile
10 by the parent or Indian custodian is likely to result in serious emotional or physical
11 damage to the juvenile and that the agency primarily responsible for providing
12 services for the Indian juvenile has made active efforts to prevent the breakup of the
13 Indian family and that those efforts have proved unsuccessful. ✓

14 ~~14~~ ~~PWACT~~ **SECTION 289.** 938.355 (6m) (am) 1. of the statutes, as affected by 2005
15 Wisconsin Act ~~(Assembly Bill 443)~~ ⁽³⁴⁴⁾, is amended to read:

16 938.355 (6m) (am) 1. If a juvenile who has violated a municipal ordinance
17 enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by
18 the municipal court, the municipal court may petition the court assigned to exercise
19 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction
20 specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at
21 the time of the judgment the municipal court explained the conditions to the juvenile
22 and informed the juvenile of that possible sanction or if before the violation the
23 juvenile has acknowledged in writing that he or she has read, or has had read to him
24 or her, those conditions and that possible sanction and that he or she understands
25 those conditions and that possible sanction. The petition shall contain a statement

1 of whether the juvenile may be subject to the federal Indian Child Welfare Act, 25
2 USC 1911 to 1963, and, if the juvenile may be subject to that act, the names and
3 addresses of the juvenile's Indian custodian, if any, and tribe, if known. ✓

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

4 **SECTION 290.** 938.355 (6m) (bm) of the statutes is created to read:

5 938.355 (6m) (bm) *Indian juvenile; notice.* ✓ If the person initiating the motion
6 knows or has reason to know that the juvenile is an Indian juvenile, notice under par.
7 (b) ✓ to the Indian juvenile's parent shall be provided in the manner specified in s.
8 938.273 (1) (ag). ✓ In like manner, the court shall also notify the Indian juvenile's
9 Indian custodian and tribe. ✓ No hearing may be held under par. (c) until at least 10
10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and
11 tribe. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court
12 shall grant a continuance of up to 20 additional days to enable the requester to
13 prepare for the hearing. ✓

14 **SECTION 291.** 938.355 (6m) (c) of the statutes, as affected by 2005 Wisconsin
15 Act ~~(Assembly Bill 443)~~ ⁽⁵⁴⁴⁾, is amended to read:

16 938.355 (6m) (c) *Sanction hearing.* ✓ Before imposing a sanction under par. (a)
17 or (ag), the court shall hold a hearing at which the juvenile is entitled to be
18 represented by legal counsel and to present evidence. The Except as provided in par.
19 (bm), the hearing shall be held within 15 days after the filing of a motion under par.
20 (b).

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

21 **SECTION 292.** 938.355 (6m) (cr) of the statutes is created to read:

22 938.355 (6m) (cr) *Indian juvenile; findings.* ✓ The court may not order the
23 sanction of placement in a place of nonsecure custody specified in par. (d) 1 for an
24 Indian juvenile unless the court finds by clear and convincing evidence, including the

par. (a) lg.
SAC. KAM!

1 testimony of one or more qualified expert witnesses, that continued custody of the
2 Indian juvenile by the parent or Indian custodian is likely to result in serious
3 emotional or physical damage to the juvenile and that the agency primarily
4 responsible for providing services for the Indian juvenile has made active efforts to
5 prevent the breakup of the Indian family and that those efforts have proved
6 unsuccessful. ✓

7 **SECTION 293.** 938.357 (1) (a) ^m 1g. of the statutes is created to read:

8 938.357 (1) (a) ^m 1g. If the juvenile is an Indian juvenile who is in need of
9 protection or services under s. 938.13 (4), (6), (6m), or (7), a notice under ^{STET} subd. 1 shall
10 also contain specific information showing that continued custody of the Indian
11 juvenile by the parent or Indian custodian is likely to result in serious emotional or
12 physical damage to the juvenile, specific information showing that the agency
13 primarily responsible for implementing the dispositional order has made active
14 efforts to prevent the breakup of the Indian family and that those efforts have proved
15 unsuccessful, a statement as to whether the new placement is in compliance with the
16 order of placement preference under s. 938.345 (1m) and, if the new placement is not
17 in compliance with that order, specific information showing good cause for departing
18 from that order. ✓

19 **SECTION 294.** 938.357 (1) (a) ^m 1m. of the statutes is created to read:

20 938.357 (1) (a) ^m 1m. In a proceeding involving an Indian juvenile who is in need
21 of protection or services under s. 938.13 (4), (6), (6m), or (7), notice under ^{STET} subd. 1 to
22 the Indian juvenile's parent shall be provided in the manner specified in s. 938.273
23 (1) (ag). In like manner, the court shall also provide notice of the hearing, together
24 with a copy of the request for the change in placement, to the Indian juvenile's Indian
25 custodian and tribe. No hearing on the request may be held until at least 10 days

1 after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe.
2 On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall
3 grant a continuance of up to 20 additional days to enable the requester to prepare
4 for the hearing. ✓

5 **SECTION 295.** 938.357 (1) (am) 2. of the statutes is amended to read:

6 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of
7 a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain
8 a hearing on the matter by filing an objection with the court within 10 days after
9 receipt of the notice. Placements may not be changed until 10 days after that notice
10 is sent to the court unless the parent, guardian, ✓ or legal custodian, ✓ or Indian
11 custodian and the juvenile, if 12 or more years of age, sign written waivers of
12 objection, except that changes in placement that were authorized in the dispositional
13 order may be made immediately if notice is given as required under subd. 1. In
14 addition, a hearing is not required for placement changes authorized in the
15 dispositional order except when an objection filed by a person who received notice
16 alleges that new information is available that affects the advisability of the court's
17 dispositional order.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109.

18 ~~Re Act~~ **SECTION 296.** 938.357 (1) (am) 3. of the statutes, as affected by 2005 Wisconsin
19 Act ~~... (Assembly Bill 445)~~ (344) ✓ keep comma is amended to read:

20 938.357 (1) (am) 3. If the court changes the juvenile's placement from a
21 placement outside the home to another placement outside the home, the change in
22 placement order shall contain one of the statements under sub. (2v) (a) 2. If the court
23 changes the placement of an Indian juvenile who is in need of protection or services
24 under s. 938.13 (4), (6), (6m), or (7) from a placement outside the home to another

1 placement outside the home, the change in placement order shall, in addition,
2 comply with the order of placement preference under s. 938.345 (1m) and contain the
3 findings under sub. (2v) (a) 4.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109.

4 **SECTION 297.** 938.357 (1) (c) 1m. of the statutes is created to read:

5 938.357 (1) (c) 1m. If the juvenile is an Indian juvenile who is in need of
6 protection or services under s. 938.13 (4), (6), (6m), or (7), a request under subd. 1.
7 shall also contain specific information showing that continued custody of the Indian
8 juvenile by the parent or Indian custodian is likely to result in serious emotional or
9 physical damage to the juvenile, specific information showing that the agency
10 primarily responsible for implementing the dispositional order has made active
11 efforts to prevent the breakup of the Indian family and that those efforts have proved
12 unsuccessful, a statement as to whether the new placement is in compliance with the
13 order of placement preference under s. 938.345 (1m) and, if the new placement is not
14 in compliance with that order, specific information showing good cause for departing
15 from that order.

16 **SECTION 298.** 938.357 (1) (c) 2m. of the statutes is created to read:

17 938.357 (1) (c) 2m. In a proceeding involving an Indian juvenile who is in need
18 of protection or services under s. 938.13 (4), (6), (6m), or (7), notice under subd. 2. to
19 the Indian juvenile's parent shall be provided in the manner specified in s. 938.273
20 (1) (ag). In like manner, the court shall also provide notice of the hearing, together
21 with a copy of the request for the change in placement, to the Indian juvenile's Indian
22 custodian and tribe. No hearing on the request may be held until at least 10 days
23 after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe.
24 On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall

1 grant a continuance of up to 20 additional days to enable the requester to prepare
2 for the hearing.

3 *PW* **SECTION 299.** 938.357 (1) (c) 3. of the statutes, as affected by 2005 Wisconsin
4 Act... ~~(Assembly Bill 443)~~ ⁽³⁴⁴⁾ is amended to read:

5 938.357 (1) (c) 3. If the court changes the juvenile's placement from a placement
6 in the juvenile's home to a placement outside the juvenile's home, the change in
7 placement order shall contain the findings under sub. (2v) (a) 1., one of the
8 statements under sub. (2v) (a) 2., and, if in addition the court finds that any of the
9 circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the
10 determination under sub. (2v) (a) 3. If the court changes the placement of an Indian
11 juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7)
12 from a placement in the juvenile's home to a placement outside the juvenile's home,
13 the change in placement order shall, in addition, comply with the order of placement
14 preference under s. 938.345 (1m) and contain the findings under sub. (2v) (a) 4.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109.

15 *PW* **SECTION 300.** 938.357 (2m) (a) of the statutes, as affected by 2005 Wisconsin
16 Act... ~~(Assembly Bill 443)~~ ⁽³⁴⁴⁾ is amended to read:

17 938.357 (2m) (a) *Request; information required.* The juvenile, the parent,
18 guardian, or legal custodian of the juvenile, [✓] ~~or~~ any person or agency primarily bound
19 by the dispositional order, other than the person or agency responsible for
20 implementing the order, or, if the juvenile is an Indian juvenile who is in need of
21 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian
22 custodian may request a change in placement under this paragraph. The request
23 shall contain the name and address of the new placement requested and shall state
24 what new information is available that affects the advisability of the current

1 placement. If the proposed change in placement would change the placement of a
2 juvenile placed in the ^{juvenile's} home to a placement outside the home, the request shall also
3 contain specific information showing that continued placement of the juvenile in the ^{juvenile's}
4 home would be contrary to the welfare of the juvenile and, unless any of the
5 circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing
6 that the agency primarily responsible for implementing the dispositional order has
7 made reasonable efforts to prevent the removal of the juvenile from the home, while
8 assuring that the juvenile's health and safety are the paramount concerns. The
9 request shall be submitted to the court. The court may also propose a change in
10 placement on its own motion. ✓

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109.

11 **SECTION 301.** 938.357 (2m) (am) of the statutes is created to read:

12 938.357 (2m) (am) *Indian juvenile; information required.* ✓ If the proposed
13 change of placement would change the placement of an Indian juvenile placed in the
14 ^{juvenile's} home under s. 938.357 (4), (6), (6m), or (7) to a placement outside the ^{juvenile's} home, a request
15 under par. (a) shall also contain specific information showing that continued custody
16 of the Indian juvenile by the parent or Indian custodian is likely to result in serious
17 emotional or physical damage to the juvenile, specific information showing that the
18 agency primarily responsible for implementing the dispositional order has made
19 active efforts to prevent the breakup of the Indian family and that those efforts have
20 proved unsuccessful, a statement as to whether the new placement is in compliance
21 with the order of placement preference under s. 938.345 (1m) and, if the new
22 placement is not in compliance with that order, specific information showing good
23 cause for departing from that order. ✓

PwAct

1 SECTION 302. 938.357 (2m) (b) of the statutes, as affected by 2005 Wisconsin

2 Act ~~... (Assembly Bill 443)~~ (344) is amended to read:

3 938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior
4 to ordering any change in placement requested or proposed under par. (a) if the
5 request states that new information is available that affects the advisability of the
6 current placement. A hearing is not required if the requested or proposed change in
7 placement does not involve a change in placement of a juvenile placed in the ^{juvenile's} home
8 to a placement outside the ^{juvenile's} home, written waivers of objection to the proposed change
9 in placement are signed by all parties entitled to receive notice under sub. (1) (am)
10 1., and the court approves. If a hearing is scheduled, not less than 3 days before the
11 hearing the court shall notify the juvenile, the parent, guardian, and legal custodian
12 of the juvenile, any foster parent, treatment foster parent, or other physical
13 custodian described in s. 48.62 (2) of the juvenile, and all parties who are bound by
14 the dispositional order at least 3 days prior to the hearing, and, if the juvenile is an
15 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),
16 or (7), the Indian juvenile's Indian custodian and tribe. A copy of the request or
17 proposal for the change in placement shall be attached to the notice. If all of the
18 parties consent, the court may proceed immediately with the hearing.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109.

19 SECTION 303. 938.357 (2m) (bm) of the statutes is created to read:

20 938.357 (2m) (bm) *Indian juvenile; notice.* If the proposed change in placement
21 would change the placement of an Indian juvenile placed in the ^{juvenile's} home under s. 938.13
22 (4), (6), (6m), or (7) to a placement outside the ^{juvenile's} home, notice under par. (b) to the
23 Indian juvenile's parent shall be provided in the manner specified in s. 938.273 (1)
24 (ag). In like manner, the court shall also provide notice of the hearing, together with

1 a copy of the request or proposal for the change in placement, to the Indian juvenile's
2 Indian custodian and tribe. No hearing on the request or proposal may be held until
3 at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian
4 custodian, and tribe. On request of the Indian juvenile's parent, Indian custodian,
5 or tribe, the court shall grant a continuance of up to 20 additional days to enable the
6 requester to prepare for the hearing. ✓

7 *Pu Act* SECTION 304. 938.357 (2m) (c) of the statutes, as affected by 2005 Wisconsin
8 Act ... (Assembly Bill 443) ⁽³⁴⁴⁾, is amended to read: ✓

9 938.357 (2m) (c) *In-home to out-of-home placement; findings required.* If the
10 court changes the juvenile's placement from a placement in the juvenile's home to a
11 placement outside the juvenile's home, the change in placement order shall contain
12 the findings under sub. (2v) (a) 1., one of the statements under sub. (2v) (a) 2., and,
13 if in addition the court finds that any of the circumstances under s. 938.355 (2d) (b)
14 1. to 4. applies with respect to a parent, the determination under sub. (2v) (a) 3. If
15 the court changes the placement of an Indian juvenile who is in need of protection
16 or services under s. 938.13 (4), (6), (6m), or (7) from a placement in the juvenile's home
17 to a placement outside the juvenile's home, the change in placement order shall, in
18 addition, comply with the order of placement preference under s. 938.345 (1m) and
19 contain the findings under sub. (2v) (a) 4. ✓

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109.

20 SECTION 305. 938.357 (2v) (a) 4. of the statutes is created to read:

21 938.357 (2v) (a) 4. If the change in placement order changes an Indian
22 juvenile's placement from a placement in the Indian juvenile's home under s. 938.13
23 (4), (6), (6m), or (7) to a placement outside the Indian juvenile's home, a finding
24 supported by clear and convincing evidence, including the testimony of one or more

1 qualified expert witnesses, that continued custody of the Indian juvenile by the
2 parent or Indian custodian is likely to result in serious emotional or physical damage
3 to the juvenile and a finding supported by clear and convincing evidence that the
4 agency primarily responsible for implementing the dispositional order has made
5 active efforts to prevent the breakup of the Indian family and that those efforts have
6 proved unsuccessful.

7 *Pw Act* SECTION 306. 938.357 (2v) (c) 1. of the statutes, as affected by 2005 Wisconsin
8 Act ~~... (Assembly Bill 444)~~ ⁽³⁴⁴⁾, is renumbered 938.357 (2v) (c) and amended to read: ✓

9 938.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances
10 under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold
11 a hearing under s. 938.38 (4m) within 30 days after the date of that finding to
12 determine the permanency plan for the juvenile. ~~If a hearing is held under this~~
13 ~~paragraph, the agency responsible for preparing the permanency plan shall file the~~
14 ~~permanency plan with the court not less than 5 days before the date of the hearing.~~ ✓
at least

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109.

15 SECTION 307. 938.357 (2v) (c) 2. of the statutes is repealed. ✓

16 SECTION 308. 938.357 (2v) (c) 3. of the statutes is repealed. ✓

17 *Pw Act* SECTION 309. 938.363 (1) (a) of the statutes, as affected by 2005 Wisconsin Act
18 ~~... (Assembly Bill 443)~~ ⁽³⁴⁴⁾, is amended to read:

19 938.363 (1) (a) A juvenile, the juvenile's parent, guardian ^{or} legal custodian,
20 any person or agency bound by a dispositional order ~~or~~ ^{again} the district attorney or
21 corporation counsel in the county in which the dispositional order was entered or, if
22 the juvenile is an Indian juvenile who is in need of protection or services under s.
23 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian may request a
24 revision in the order that does not involve a change in placement, including a revision

1 with respect to the amount of child support to be paid by a parent. The court may
2 also propose a revision. The request or court proposal shall set forth in detail the
3 nature of the proposed revision and what new information is available that affects
4 the advisability of the court's disposition. The request or court proposal shall be
5 submitted to the court. The court shall hold a hearing on the matter prior to any
6 revision of the dispositional order if the request or court proposal indicates that new
7 information is available that affects the advisability of the court's dispositional order,
8 unless written waivers of objections to the revision are signed by all parties entitled
9 to receive notice and the court approves. ✓

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275; 1997 a. 35, 80, 237, 252; 1999 a. 103; 2001 a. 38, 109.

10 **SECTION 310.** 938.363 (1) (b) of the statutes, as affected by 2005 Wisconsin Act
11 ~~... (Assembly Bill 443)~~ ⁽³⁴⁴⁾ is amended to read:

12 938.363 (1) (b) If a hearing is held, at least 3 days before the hearing ✓ the court
13 shall notify the juvenile, the juvenile's parent, guardian, and legal custodian, all
14 parties bound by the dispositional order, the juvenile's foster parent, treatment
15 foster parent, or other physical custodian described in s. 48.62 (2), and ✓ the district
16 attorney or corporation counsel in the county in which the dispositional order was
17 entered at least 3 days prior to the hearing and, if the juvenile is an Indian juvenile
18 who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian ✓
19 juvenile's Indian custodian and tribe. ✓ A copy of the request or proposal shall be
20 attached to the notice. If all parties consent, the court may proceed immediately with
21 the hearing. No revision may extend the effective period of the original order, or
22 revise an original order under s. 938.34 (3) (f) or (6) (am) to impose more than a total
23 of 30 days of detention, nonsecure custody, or inpatient treatment on a juvenile. ✓

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275; 1997 a. 35, 80, 237, 252; 1999 a. 103; 2001 a. 38, 109.

Pu Act

1 **SECTION 311.** 938.365 (1m) of the statutes, as affected by 2005 Wisconsin Act
2 ~~(Assembly Bill 443)~~ ⁽³⁴⁴⁾, is amended to read:

3 938.365 (1m) REQUEST FOR EXTENSION. The parent, juvenile, guardian, legal
4 custodian, any person or agency bound by the dispositional order, the district
5 attorney or corporation counsel in the county in which the dispositional order was
6 entered, ~~or~~ the court on its own motion, or, if the juvenile is an Indian juvenile who
7 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian
8 juvenile's Indian custodian may request an extension of an order under s. 938.355.
9 The request shall be submitted to the court ~~which~~ that entered the order. An order
10 under s. 938.355 for placement of a juvenile in detention, nonsecure custody, or
11 inpatient treatment under s. 938.34 (3) (f) or (6) (am) may not be extended. Other
12 orders or portions of orders under s. 938.355 may be extended only as provided in this
13 section.

History 195 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109.

14 **SECTION 312.** 938.365 (2) of the statutes, as affected by 2005 Wisconsin Act
15 ~~(Assembly Bill 443)~~ ⁽³⁴⁴⁾, is amended to read:

16 938.365 (2) NOTICE. No order may be extended without a hearing. The court
17 shall ~~notify~~ provide notice of the time and place of the hearing to the juvenile or the
18 juvenile's guardian ad litem or counsel, the juvenile's parent, guardian, and legal
19 custodian, all of the parties present at the original hearing, the juvenile's foster
20 parent, treatment foster parent or other physical custodian described in s. 48.62 (2),
21 ~~and~~ the district attorney or corporation counsel in the county in which the
22 dispositional order was entered ~~of the time and place of the hearing, and, if the~~

1 juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 ✓

2 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian. ✓

History: 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109.

3 **SECTION 313.** 938.365 (2g) (b) 4 of the statutes is created to read: ✓

4 938.365 (2g) (b) 4. If the juvenile is an Indian juvenile who is placed outside
5 the home under s. 938.13 (4), (6), (6m), or (7), specific information showing that active
6 efforts have been made to prevent the breakup of the Indian family and that those
7 efforts have proved unsuccessful.

8 **SECTION 314.** 938.365 (2m) (a) 1. of the statutes, as affected by 2005 Wisconsin
9 Act ~~...~~ (Assembly Bill 443), is amended to read: ⁽³⁴⁴⁾

10 938.365 (2m) (a) 1. Any party may present evidence relevant to the issue of
11 extension. If the juvenile is placed outside of his or her home, the person or agency
12 primarily responsible for providing services to the juvenile shall present as evidence
13 specific information showing that the person or agency has made reasonable efforts
14 to achieve the goal of the juvenile's permanency plan, unless return of the juvenile
15 to the home is the goal of the permanency plan and any of the circumstances under
16 s. 938.355 (2d) (b) 1. to 4. applies. If an Indian juvenile is placed outside the home
17 under s. 938.13 (4), (6), (6m), or (7), the person or agency primarily responsible for
18 providing services to the Indian ^{juvenile} child shall also present as evidence specific
19 information showing that the person or agency has made active efforts to prevent the
20 breakup of the Indian family and that those efforts have proved unsuccessful.

21 1m. ✓ The court shall make findings of fact and conclusions of law based on the
22 evidence. The findings of fact shall include a finding as to whether reasonable efforts
23 were made by the agency primarily responsible for providing services to the juvenile
24 to achieve the goal of the juvenile's permanency plan, unless return of the juvenile

1 to the home is the goal of the permanency plan and the court finds that any of the
2 circumstances under s. 938.355 (2d) (b) 1. to 4. applies. If the juvenile is an Indian
3 juvenile who is placed outside the home under s. 938.13 (4), (6), (6m), or (7), the
4 findings of fact shall also include a finding as to whether active efforts were made to
5 prevent the breakup of the Indian family and as to whether those efforts have proved
6 unsuccessful. An order shall be issued under s. 938.355. ✓

History: 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109.

7 **SECTION 315.** 938.365 (2m) (a) 3. of the statutes, as affected by 2005 Wisconsin
8 Act ~~...~~ (Assembly Bill 443), is amended to read: ✓

9 938.365 (2m) (a) 3. The court shall make the findings under subd. 1. 1m.
10 relating to reasonable efforts to achieve the goal of the juvenile's permanency plan
11 and the findings under subd. 2. on a case-by-case basis based on circumstances
12 specific to the juvenile and shall document or reference the specific information on
13 which those findings are based in the order issued under s. 938.355. An order that
14 merely references subd. 1. 1m. or 2. without documenting or referencing that specific
15 information in the order or an amended order that retroactively corrects an earlier
16 order that does not comply with this subdivision is not sufficient to comply with this
17 subdivision. ✓

History: 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109.

18 **SECTION 316.** 938.365 (2m) (ad) 1. of the statutes is renumbered 938.365 (2m)
19 (ad) and amended to read:

20 938.365 (2m) (ad) If the court finds that any of the circumstances under s.
21 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing
22 under s. 938.38 (4m) within 30 days after the date of that finding to determine the
23 permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the~~

1 ~~agency responsible for preparing the permanency plan shall file the permanency~~
2 ~~plan with the court not less than 5 days before the date of the hearing.~~ ✓

History: 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109.

3 **SECTION 317.** 938.365 (2m) (ad) 2. of the statutes is repealed. ✓

4 ~~RAE~~ **SECTION 318.** 938.365 (2m) (ag) of the statutes, as affected by 2005 Wisconsin
5 Act ... ~~(Assembly Bill 448)~~ ⁽³⁴⁴⁾, is amended to read:

6 938.365 (2m) (ag) The court shall give a foster parent, treatment foster parent,
7 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
8 ~~par. (ad) 2. or sub. (2)~~ ✓ an opportunity to be heard at the hearing by permitting the
9 foster parent, treatment foster parent, or other physical custodian to make a written
10 or oral statement during the hearing, or to submit a written statement prior to the
11 hearing, relevant to the issue of extension. A foster parent, treatment foster parent,
12 or other physical custodian who receives notice of a hearing under ~~par. (ad) 2. or sub.~~
13 (2) and an opportunity to be heard under this paragraph does not become a party to
14 the proceeding on which the hearing is held solely on the basis of receiving that notice
15 and having the opportunity to be heard. ✓
16 *Insert 134-15*

History: 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109.

16 **SECTION 319.** 938.38 (4) (i) of the statutes is created to read:

17 938.38 (4) (i) If the juvenile is an Indian juvenile who is in need of protection
18 or services under s. 938.13 (4), (6), (6m), or (7), all of the following: ✓

19 1. The name, address, and telephone number of the Indian juvenile's Indian
20 custodian and tribe. ✓

21 2. A description of the remedial services and rehabilitation programs offered
22 in an effort to prevent the breakup of the Indian family. ✓

23 3. A statement as to whether the Indian juvenile's placement is in compliance
24 with the order of placement preference specified in s. 938.345 (1m) and, if the ✓

1 placement is not in compliance with that order, an explanation for the departure
2 from that order. ✓

3 **SECTION 320.** 938.38 (4m) of the statutes is created to read:

4 938.38 (4m) PERMANENCY PLAN DETERMINATION HEARING. ✓ (a) If in a proceeding
5 under s. 938.21, 938.32, 938.355, 938.357, or 938.365 the court finds that any of the
6 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,
7 the court shall hold a hearing within 30 days after the date of that finding to
8 determine the permanency plan for the juvenile. If a hearing is held under this
9 paragraph, ✓ the agency responsible for preparing the permanency plan shall file the
10 permanency plan with the court not less than 5 days before the date of the hearing. ✓

11 (b) At least 10 days before the date of the hearing the court shall notify the
12 juvenile, any parent, guardian, and legal custodian of the juvenile, and any foster
13 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2)
14 of the juvenile of the time, place, and purpose of the hearing.

15 (c) If the court knows or has reason to know that the juvenile is an Indian
16 juvenile who is or is alleged to be in need of protection or services under s. 938.13 (4),
17 (6), (6m), or (7), ✓ notice under par. (b) to the Indian juvenile's parent shall be provided
18 in the manner specified in s. 938.273 (1) (ag). In like manner, the court shall also
19 notify the Indian juvenile's Indian custodian and tribe. No hearing may be held
20 under par. (a) until at least 10 days after receipt of the notice by the Indian juvenile's
21 parent, Indian custodian, and tribe. ✓ On request of the Indian juvenile's parent,
22 Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional
23 days to enable the requester to prepare for the hearing. ✓

24 (d) The court shall give a foster parent, treatment foster parent, or other
25 physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b)

1 an opportunity to be heard at the hearing by permitting the foster parent, treatment
2 foster parent, or other physical custodian to make a written or oral statement during
3 the hearing, or to submit a written statement prior to the hearing, relevant to the
4 issues to be determined at the hearing. The foster parent, treatment foster parent,
5 or other physical custodian does not become a party to the proceeding on which the
6 hearing is held solely on the basis of receiving that notice and having the opportunity
7 to be heard. ✓

✓†

8 **SECTION 321.** 938.38 (5) (bm) of the statutes is created to read:

9 938.38 (5) (bm) If the juvenile is an Indian juvenile who is in need of protection
10 or services under s. 938.13 (4), (6), (6m), or (7), notice under par. (b) to the Indian
11 juvenile's parent, Indian custodian, and tribe shall be provided in the manner
12 specified in s. 938.273 (1) (ag). No review may be held until at least 10 days after
13 receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe. On
14 request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall
15 grant a continuance of up to 20 additional days to enable the requester to prepare
16 for the review. ✓

17 **SECTION 322.** 938.38 (5) (b) of the statutes is amended to read:

18 938.38 (5) (b) The court or the agency shall notify ~~the parents of the juvenile,~~
19 the juvenile, if he or she is 10 years of age or older, ~~and; the juvenile's parent,~~
20 guardian, and legal custodian; the juvenile's foster parent, the juvenile's treatment
21 foster parent, the operator of the facility in which the juvenile is living, or the relative
22 with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is in
23 need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's
24 Indian custodian and tribe of the date, time, and place of the review, of the issues to
25 be determined as part of the review, and of the fact that they may have an opportunity

1 to be heard at the review by submitting written comments not less than 10 working
2 days before the review or by participating at the review. The court or agency shall
3 notify the person representing the interests of the public, the juvenile's counsel, and
4 the juvenile's guardian ad litem of the date of the review, of the issues to be
5 determined as part of the review, and of the fact that they may submit written
6 comments not less than 10 working days before the review. The notices under this
7 paragraph shall be provided in writing not less than 30 days before the review and
8 copies of the notices shall be filed in the juvenile's case record. ✓

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321.

9 **SECTION 323.** 938.38 (5) (c) 8. of the statutes is created to read:

10 938.38 (5) (c) 8. If the juvenile is an Indian juvenile who is in need of protection
11 or services under s. 938.13 (4), (6), (6m), or (7), whether active efforts were made by
12 the agency to prevent the breakup of the Indian family and whether those efforts
13 have proved unsuccessful. ✓

14 **SECTION 324.** 938.38 (5) (d) of the statutes is amended to read:

15 938.38 (5) (d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the
16 permanency plan shall, at least 5 days before a review by a review panel, provide to
17 each person appointed to the review panel, ^{or juvenile's} the child's parent, guardian, and legal
18 custodian, the person representing the interests of the public, the juvenile's counsel
19 and, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who
20 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian
21 juvenile's Indian custodian and tribe a copy of the permanency plan and any written
22 comments submitted under par. (b). Notwithstanding s. 938.78 (2) (a), a person
23 appointed to a review panel, the person representing the interests of the public, the
24 juvenile's counsel [✓] and, the juvenile's guardian ad litem, and, if the juvenile is an

1 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),
2 or (7), the Indian juvenile's Indian custodian and tribe may have access to any other
3 records concerning the juvenile for the purpose of participating in the review. A
4 person permitted access to a juvenile's records under this paragraph may not disclose
5 any information from the records to any other person.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321.

6 **SECTION 325.** 938.38 (5) (e) of the statutes is amended to read:

7 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
8 the determinations under par. (c) and shall provide a copy to the court that entered
9 the order; the juvenile or the juvenile's counsel or, guardian ad litem; the person
10 representing the interests of the public; the juvenile's parent or, guardian and, or
11 legal custodian; the juvenile's foster parent, the juvenile's treatment foster parent,
12 or the operator of the facility where the juvenile is living; and, if the juvenile is an
13 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),
14 or (7), the Indian juvenile's Indian custodian and tribe.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321.

15 **SECTION 326.** 938.38 (5m) (b) of the statutes is amended to read:

16 938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court
17 shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; the
18 juvenile's foster parent or treatment foster parent, the operator of the facility in
19 which the juvenile is living, or the relative with whom the juvenile is living; the
20 juvenile's counsel, and the juvenile's guardian ad litem; the agency that prepared the
21 permanency plan; and the person representing the interests of the public; and, if the
22 juvenile is an Indian juvenile who is in need of protection or services under s. 938.13

1 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the date, time,
2 and place of the hearing.

3 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321.

3 **SECTION 327.** 938.38 (5m) (bm) of the statutes is created to read:

4 938.38 (5m) (bm) If the juvenile is an Indian juvenile who is in need of
5 protection or services under s. 938.13 (4), (6), (6m), or (7), notice under par. (b) to the
6 Indian juvenile's parent, Indian custodian, and tribe shall be provided in the manner
7 specified in s. 938.273 (1) (ag). No hearing under par. (a) may be held until at least
8 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian,
9 and tribe. On request of the Indian juvenile's parent, Indian custodian, or tribe, the
10 court shall grant a continuance of up to 20 additional days to enable the requester
11 to prepare for the hearing.

12 **SECTION 328.** 938.38 (5m) (d) of the statutes is amended to read:

13 938.38 (5m) (d) At least 5 days before the date of the hearing the agency that
14 prepared the permanency plan shall provide a copy of the permanency plan and any
15 written comments submitted under par. (c) to the court, to the juvenile's parent,
16 guardian, and legal custodian, to the person representing the interests of the public,
17 ~~and to the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian~~
18 ~~juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7),~~
19 ~~to the Indian juvenile's Indian custodian and tribe.~~ Notwithstanding s. 938.78 (2)
20 (a), the person representing the interests of the public ~~and,~~ the juvenile's counsel or
21 guardian ad litem, ~~and, if the juvenile is an Indian juvenile who is in need of~~
22 ~~protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian~~
23 ~~custodian and tribe~~ may have access to any other records concerning the juvenile for
24 the purpose of participating in the review. A person permitted access to a juvenile's

1 records under this paragraph may not disclose any information from the records to
2 any other person.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321.

3 **SECTION 329.** 938.38 (5m) (e) of the statutes is amended to read:

4 938.38 (5m) (e) After the hearing, the court shall make written findings of fact
5 and conclusions of law relating to the determinations under sub. (5) (c) and shall
6 provide a copy of those findings of fact and conclusions of law to the juvenile; the
7 juvenile's parent, guardian, and legal custodian; the juvenile's foster parent or
8 treatment foster parent, the operator of the facility in which the juvenile is living,
9 or the relative with whom the juvenile is living; the agency that prepared the
10 permanency plan; [✓]and the person representing the interests of the public; [✓]and, if the
11 juvenile is an Indian juvenile who is in need of protection or services under s. 938.13
12 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. [✓] The court shall
13 make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on
14 circumstances specific to the juvenile and shall document or reference the specific
15 information on which those findings are based in the findings of fact and conclusions
16 of law prepared under this paragraph. Findings of fact and conclusions of law that
17 merely reference sub. (5) (c) 7. without documenting or referencing that specific
18 information in the findings of fact and conclusions of law or amended findings of fact
19 and conclusions of law that retroactively correct earlier findings of fact and
20 conclusions of law that do not comply with this paragraph are not sufficient to comply
21 with this paragraph.

[✓]
History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321.

22 **SECTION 330.** 938.38 (6) (cm) of the statutes is created to read:

938.38 (6) (cm) Standards for active efforts to prevent the breakup of the family of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7). ✓ X

SECTION 331. 938.47 of the statutes is created to read:

938.47 Indian juvenile; invalidation of action. Any Indian juvenile who is the subject of an out-of-home care placement under s. 938.13 (4), (6), (6m), or (7), any parent or Indian custodian of that Indian juvenile, or the Indian juvenile's tribe may move the court to invalidate that out-of-home care placement on the grounds that the out-of-home care placement was made in violation of 25 USC 1911, 1912, or 1913. If the court finds that those grounds exist, the court shall invalidate the out-of-home care placement and order the Indian juvenile to be returned to his or her parent or Indian custodian.

History: 1979 c. 330.

(END)

X

Insert 7-1

Section #. 46.515 (1) (d) of the statutes is amended to read:

48.02 (8g)

46.515 (1) (d) "Indian child" has the meaning given in s. ~~48.981 (1) (cs)~~.

History: 1997 a. 293; 2005 a. 25.

(edit insert)

X

Insert 134-15

Section #. 938.38 (3) (intro.) of the statutes is amended to read:

938.38 (3) TIME. (intro.) Subject to s. 938.355 (2d) (c) ~~+~~ the agency shall file the permanency plan with the court within 60 days after the date on which the juvenile was first removed from his or her home, except under either of the following conditions:

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321.

(c) ~~+~~ nt)